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MICHAEL J. STRIKER 103 EAST NECK ROAD HUNTINGTON, NY 11743			EXAMINER HALL, COREY JOHN	
			ART UNIT 3743	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

striker@strikerlaw.com

Office Action Summary

Application No.

10/563,392

Applicant(s)

WORGULL ET AL.

Examiner

COREY HALL

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/9/2011 have been fully considered but they are not persuasive. On page 6, line 14-page 8, line 6 Applicant argues that the barrel portion of Springer would not have been recognized as inherently having a handle function by one skilled in the art. That the barrel portion would have been expected to be hot and that the switch 117 would be difficult to operate when holding the dryer by the barrel portion. Finally, that neither Springer nor Gallone teach or suggest the barrel portion comprising a handle grip that is insulated from the heater. The arguments have been fully considered but were not found persuasive. Both Thaler '331 (figure 4) and Kaeriyama (figure 2) show that those skilled in the art have recognized that a barrel portion can have a handle function. Similarly, the barrel portion of Springer does inherently have a handle function. Additionally, figure 2 of Springer shows doors 112 and 113 which would inherently insulate the barrel portion 110 from the heater 116 to some degree. Having the heating elements 120 of the heater 116 spaced from the barrel portion 110 would also inherently provide an insulating effect. And, the barrel portion 110 having a thickness would also inherently provide an insulating effect. From figure 1 of Springer it is apparent that a user could move switch 117 using a thumb or index finger while holding the first or second handle grips. Finally, as stated above, the barrel portion of Springer would inherently be insulated to some degree from the heater. Therefore, Springer does disclose the claimed invention.
2. On page 10, line 1-page 11, line 13 Applicant argues that Thaler '331 does not disclose a single cold air combination switch. The arguments have been fully considered but were not found persuasive. Thaler '331 shows a single cold air combination switch 20. While figure 5 of

Thaler '331 does show two electrically wired cold air combination switches 127, 120, figure 1 shows a single electrically wired cold air combination switch 20. It is apparent from figure 4 of Thaler '331 that a user of the hair dryer could contact the single cold air combination switch 20 directly using a thumb or index finger. Therefore, Thaler '331 does disclose a single cold air combination switch 20.

3. On page 11, line 14-page 12, line 2 Applicant argues that Thaler '331 does not disclose a housing portion between a handle grip and a barrel portion. The arguments have been fully considered but were not found persuasive. Figure 1 of Thaler '331 shows a handle grip 11 and a barrel portion 10 which are connected to each other through a housing portion which houses an electric fan. Therefore, Thaler '331 does disclose a housing portion between a handle grip and a barrel portion.

4. On page 12, lines 3-17 Applicant argues that the trigger switch 20 of Thaler '331 is located on the handle 11 and that none of the references teach or disclose a cold air combination switch located only on the housing between the handle grip and the barrel. The arguments have been fully considered but were not found persuasive. Figure 1 of Thaler '331 shows that the cold air combination switch 20 is located both on the housing and on the handle. As explained below, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the single cold air combination switch 20 which is partially located on the housing to be located only on the housing, for the purpose of providing more space on the first handle grip 11 for a more secure grip, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Therefore, it would

have been obvious to locate the cold air combination switch 20, which is partially located on the housing, to be located only on the housing.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3-6 and 9-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "sufficiently" in claim 13, line 10 is a relative term which renders the claim indefinite. The term "sufficiently" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term sufficiently renders indefinite to what degree the barrel portion is insulated.

Claim Rejections - 35 USC § 102

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
9. Claims 13 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Springer (US Patent No. 4,232,454 previously cited).
10. Regarding claims 13 and 10, Springer discloses a hand hair dryer (100, fig. 2) comprising: an electric fan (103, fig. 2) located in a housing portion (101, fig. 2); a first handle grip (119, fig. 2) comprising operator control elements (117, 118, fig. 2) and connected to the housing portion (101, fig. 2); and a barrel portion (110, fig. 2) containing an electric heater (116,

fig. 2) and connected to the housing portion (101, fig. 2) at an angle of approximately 90° with respect to said first handle grip (119, fig. 2) wherein: said electric heater (116, fig. 2) is located in line with said electric fan (103, fig. 2) for generating an air stream (fig. 2 showing an air stream with arrows) from said barrel portion (110, fig. 2); said barrel portion (110, fig. 2) is embodied as a second handle grip (fig. 2 showing the barrel portion 110 which is inherently capable of being used as a second handle grip and where this language is given little weight because it is functional language and the apparatus claim limitations read on the prior art) that is sufficiently insulated (fig. 2 showing doors 112 and 113 which would inherently insulate the barrel portion 110 from the heater 116 and where having the heating elements 120 of the heater 116 spaced from the barrel portion 110 would also inherently provide an insulating effect and where the barrel portion 110 having a thickness would also inherently provide an insulating effect and where sufficiently insulated is indefinite as stated above) from the heater (116, fig. 2) to prevent said second handle grip (110, fig. 2) from getting hot during use (where as stated above the hair dryer has insulating effects and where the heater can be deactivated which would also prevent the second handle grip from getting hot during use of the fan); a single cold air combination switch (117, fig. 2, col. 3, lines 22-23 describing the heater switch 117 as changing the heater wattage and col. 4, lines 6-10 describing switch 117 as being used to turn the heat on) is located only on the housing portion (101, fig. 2) between said first handle grip (119, fig. 2) and said barrel portion (110, fig. 2) at the angle formed by the first handle grip (119, fig. 2) and the barrel portion (110, fig. 2); and said cold air combination switch (117, fig. 2) is configured to be actuated selectively from the first (119, fig. 2) or second (110, fig. 2) handle grip (showing a cold air combination switch 117 at the claimed location on the housing 101 capable of being actuated

from 119 and 110 and where this claim language is given little weight because it is functional language and the apparatus claim limitations read on the prior art), by direct contact between the cold air combination switch (117, fig. 2) and one finger of a hand (where it is implicit that a user of a hand held hair dryer would operate the switch 117 using one finger of a hand) on either the first handle grip (119, fig. 2) or the second (110, fig. 2) handle grip, and wherein the cold air combination switch (117, fig. 2) is a one-legged toggle switch (fig. 1 at 117 showing a one-legged toggle switch).

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Springer (US Patent No. 4,232,454) as applied to claim 13 above, and further in view of Gallone (US Patent No. 5,349,147 previously cited).

13. In regards to claim 11, Springer discloses the claimed invention including a cold air combination switch (117, fig. 2), except for wherein the switch is a two-legged toggle switch. However, Gallone teaches wherein a switch (2, fig. 1) is a two-legged (15, fig. 1 showing two legs 15 of a toggle switch) toggle switch in order to provide a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing (abstract, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Springer reference, to include wherein the switch is a two-legged toggle switch, as suggested and taught by Gallone, for the purpose of providing a water-splash protected electric switch that can establish or break continuity between contacts within the

switch casing. The modification merely involves simply substituting one known element for another to obtain predictable results. One would be motivated to combine Springer with Gallone because Gallone teaches a two-legged toggle switch that provides a water-splash protected switch and Springer could be similarly improved by simply substituting its toggle switch for a two-legged toggle switch that provides a water-splash protected switch, thus preventing the user from electrical shock by the switch if water, for example from a sink, is splashed onto the switch.

14. Claims 13, 3-6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US Patent No. 5,727,331 hereinafter Thaler '331 previously cited) in view of Thaler et al. (US Patent No. 4,711,988 hereinafter Thaler '988 previously cited) and further in view of Kaeriyama (JP 03 009 703 A previously cited).

15. Regarding claims 13, 3-6, and 9, Thaler '331 discloses a hand hair dryer (30, fig. 1) comprising: an electric fan ("a motor driven fan as a blower" col. 2, lines 34-40 describing a fan as incorporated by reference from Thaler '988) located in a housing portion (fig. 1 showing a housing portion connected to a first handle grip 11 and a barrel portion 10); a first handle grip (11, fig. 1) . . . and connected to the housing portion (fig. 1); and a barrel portion (10, fig. 1) containing an electric heater ("an electrical heater" col. 2, lines 34-40 describing a heater as incorporated by reference from Thaler '988) and connected to the housing portion (fig. 1) at an angle of approximately 90° (fig. 1 showing an angle of approximately 90°) with respect to said first handle grip (11, fig. 1) wherein: said electrical heater ("an electrical heater" col. 2, lines 34-40 describing a heater as incorporated by reference from Thaler '988 which shows in figure 1 a heater 14 in line with a fan means 12) is located in line (fig. 1 showing alignment 60) with said electric fan ("a motor driven fan as a blower" col. 2, lines 34-40 describing a fan as incorporated

by reference from Thaler '988) for generating an air stream (fig. 4 showing an air stream from the barrel portion) from said barrel portion; said barrel portion (10, fig. 1) is embodied as a second handle grip (fig. 4) . . . ; a single cold air combination switch (20, fig. 1, col. 2, lines 34-49 describing the switch 20 as controlling the temperature as incorporated by reference from Thaler '988, figure 1 at 42) is located . . . on the housing portion (fig. 1 showing the switch 20 being partially on the housing portion) between said first handle grip (11, fig. 1) and said barrel portion (10, fig. 1) at the angle (fig. 1 showing the switch 20 at the angle) formed by the first handle grip (11, fig. 1) and the barrel portion (10, fig. 1); and said cold air combination switch (20, fig. 1) is configured to be actuated selectively from the first or second handle grip (11, 10, fig. 1 showing the switch 20 at the claimed location and capable of being actuated from 11 and 10 and where this claim language is given little weight because it is functional language and the apparatus claim limitations read on the prior art), by direct contact between the cold air combination switch (20, fig. 1) and one finger of a hand (where it is implicit that a user of a hand held hair dryer would operate the switch 20 using one finger of a hand and where figure 4 shows that a user's hand on the second handle grip would be very close to the switch 20 and could contact the switch directly with a thumb or index finger) on either the first handle grip (11, fig. 1) or the second handle grip (10, fig. 1), wherein the second handle grip (10, fig. 1) is shaped cylindrically (fig. 3 showing the second handle grip 10 being shaped cylindrically), and wherein the cold air combination switch (20, fig. 1) is a pushbutton (fig. 1 at 61 showing that the switch 20 is a pushbutton, col. 2, lines 53-59 describing the switch 20 moving in the direction of arrow 61), except for comprising operator control elements, that is sufficiently insulated from the heater to prevent said second handle grip from getting hot during use, only, wherein the barrel portion is

heat-insulated from the outside, wherein the second handle grip and the barrel portion are embodied as heat-insulated from the outside, and wherein the first and second handle grips are each provided with a nonslip surface. However, Thaler '988 teaches comprising operator control elements (16, 18, fig. 1) in order to independently control the power and temperature (col. 2, lines 39-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include comprising operator control elements, as suggested and taught by Thaler '988, for the purpose of independently controlling the power and temperature. The modification merely involves combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Thaler '988 because Thaler '988 provides additional control over both the power and the temperature and Thaler '331, which incorporates by reference Thaler '988, could be similarly improved by having similar operator control elements, thus providing greater control over the power and temperature of the hair dryer.

Kaeriyama teaches that is sufficiently insulated from a heater to prevent a second handle grip from getting hot during use (page 8, lines 8-24 describing achieving heat insulation by making the barrel portion with thicker walls to prevent the surface from having high temperatures), wherein a barrel portion is heat-insulated from the outside (page 8, lines 8-24 describing achieving heat insulation by making the barrel portion with thicker walls which is in contrast to an internal cold-air conduit), wherein a second handle grip and a barrel portion are embodied as heat-insulated from the outside (fig. 4 showing the entire barrel portion including the second handle grip portion being heat-insulated from the outside, page 8, lines 8-24), and wherein a first (5, fig. 2) and second (4, fig. 2) handle grips are each provided with a nonslip

surface (fig. 2 showing antislip ribs on the first 5 and second 4 handle grips, "antislip rib 25" page 8, line 11) in order to provide greater heat insulation to the barrel portion (page 8, lines 8-24) and to prevent slipping (page 8, line 11) when gripping the hair dryer. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include that is sufficiently insulated from the heater to prevent said second handle grip from getting hot during use, wherein the barrel portion is heat-insulated from the outside, wherein the second handle grip and the barrel portion are embodied as heat-insulated from the outside, and wherein the first and second handle grips are each provided with a nonslip surface, as suggested and taught by Kaeriyama, for the purpose of providing greater heat insulation to the barrel portion and preventing slipping when gripping the hair dryer. The modification merely involves combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Kaeriyama because Kaeriyama teaches that a hair dryer barrel portion can be cooler when grasped by having the barrel heat insulated and easier to grip by having nonslip surfaces and Thaler '331 could be similarly improved by having its barrel heat insulated and by having nonslip surfaces, thus making the barrel portion even cooler to better ensure that the user is not burned and to better ensure that the user can maintain a good grip on the hair dryer.

Thaler '331 in view of Thaler '988 and further in view of Kaeriyama discloses the claimed invention except for only. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the single cold air combination switch (20, fig. 1) which is partially located on the housing (fig. 1) to be located only on the housing, for the purpose of providing more space on the first handle grip (11, fig. 1) for a more secure grip, since

it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) and further in view of Kaeriyama (JP 03 009 703 A) as applied to claim 13 above, and further in view of Paulhus et al. (US Patent No. 4,676,260 previously cited).

17. In regards to claim 10, Thaler '331 in view of Thaler '988 and further in view of Kaeriyama discloses the claimed invention including a cold air combination switch (20, fig. 1), except for wherein the switch is a one-legged toggle switch. However, Paulhus et al. teaches a switch that is a one-legged toggle switch (20, fig. 1 showing a one-legged toggle heat switch 20 on the housing 12 of a hair dryer) in order to provide a switch in the proximity of a finger of the hand of the operator (col. 2, lines 11-15) and to provide a switch that can turn the heater on or off without having to be held in place by the operator. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 and further in view of Kaeriyama reference, to include wherein the switch is a one-legged toggle switch, as suggested and taught by Paulhus et al., for the purpose of providing a switch in the proximity of a finger of the hand of the operator and providing a switch that can turn the heater on or off without having to be held in place by the operator. The modification merely involves simply substituting one known element for another to obtain predictable results. One would be motivated to combine Thaler '331 with Paulhus et al. because Paulhus et al. teaches a one-legged toggle heat switch that is close to a finger of the operator for greater ease in operation and does not require the operator to hold it in place and Thaler '331 could be similarly

improved by simply substituting its switch for a one-legged toggle heat switch, thus providing a switch that can be operated with ease using a finger and avoiding finger fatigue by providing a switch that does not have to be held in place by the operator.

18. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) and further in view of Kaeriyama (JP 03 009 703 A) as applied to claim 13 above, and further in view of Gallone (US Patent No. 5,349,147).

19. In regards to claim 11, Thaler '331 in view of Thaler '988 and further in view of Kaeriyama discloses the claimed invention including a cold air combination switch (20, fig. 1), except for wherein the switch is a two-legged toggle switch. However, Gallone teaches wherein a switch (2, fig. 1) is a two-legged (15, fig. 1 showing two legs 15 of a toggle switch) toggle switch in order to provide a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing (abstract, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 and further in view of Kaeriyama reference, to include wherein the switch is a two-legged toggle switch, as suggested and taught by Gallone, for the purpose of providing a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing. The modification merely involves simply substituting one known element for another to obtain predictable results. One would be motivated to combine Thaler '331 with Gallone because Gallone teaches a two-legged toggle switch that provides a water-splash protected switch and Thaler '331 could be similarly improved by simply substituting its switch for a two-legged toggle switch that provides a water-

splash protected switch, thus preventing the user from electrical shock by the switch if water, for example from a sink, is splashed onto the switch.

20. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) and further in view of Kaeriyama (JP 03 009 703 A) as applied to claim 13 above, and further in view of Berryman (US Patent No. 3,612,824 previously cited).

21. In regards to claim 12, Thaler '331 in view of Thaler '988 and further in view of Kaeriyama discloses the claimed invention, except for wherein: a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit. However, Berryman teaches wherein: a centrally located warm-air conduit (fig. 3 at 97) and a coaxial cold-air conduit (74, fig. 3) are provided in a barrel portion (73, fig. 3); the central warm-air conduit (fig. 3 at 97) is formed by a hollow-cylindrical barrel (66, fig. 3), in which a heater (108, fig. 3) is located; the coaxial cold-air conduit (74, fig. 3) is formed by the barrel portion (73, fig. 3) and the hollow-cylindrical barrel (66, fig. 3); and the central warm-air conduit (fig. 3 at 97) and the coaxial cold-air conduit (74, fig. 3) are acted upon by a cold air stream of the fan (53, fig. 3) and, by means of the heater (108, fig. 3), a warm air stream outlet is effected out of the central warm-air conduit (fig. 3 at 97), and a cold air stream outlet is effected from the coaxial cold-air conduit

(74, fig. 3) in order to prevent the user from being burned due to the heating of the barrel during extended use (col. 2, lines 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 and further in view of Kaeriyama reference, to include wherein: a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit, as suggested and taught by Berryman, for the purpose of preventing the user from being burned due to the heating of the barrel during extended use. The modification merely involves combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Berryman because Berryman teaches a hair dryer that reduces the heating of the barrel by using a coaxial cold-air conduit to prevent the user from being burned and Thaler '331 could be similarly improved by having a similar barrel, thus better ensuring that the user is not burned by the barrel.

22. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) and further in view of Berryman (US Patent No. 3,612,824).

23. Regarding claim 14, Thaler '331 discloses a hand hair dryer (30, fig. 1) comprising: an electric fan ("a motor driven fan as a blower" col. 2, lines 34-40 describing a fan as incorporated

by reference from Thaler '988) located in a housing portion (fig. 1 showing a housing portion connected to a first handle grip 11 and a barrel portion 10); a first handle grip (11, fig. 1) . . . and connected to the housing portion (fig. 1); and a barrel portion (10, fig. 1) containing an electric heater ("an electrical heater" col. 2, lines 34-40 describing a heater as incorporated by reference from Thaler '988) and connected to the housing portion (fig. 1) at an angle of approximately 90° (fig. 1 showing an angle of approximately 90°) with respect to said first handle grip (11, fig. 1) wherein: said electric heater ("an electrical heater" col. 2, lines 34-40 describing a heater as incorporated by reference from Thaler '988 which shows in figure 1 a heater 14 in line with a fan means 12) is located in line (fig. 1 showing alignment 60) with said electric fan ("a motor driven fan as a blower" col. 2, lines 34-40 describing a fan as incorporated by reference from Thaler '988) for generating an air stream (fig. 4 showing an air stream from the barrel portion) from said barrel portion; said barrel portion (10, fig. 1) is embodied as a second handle grip (fig. 4); a single cold air combination switch (20, fig. 1, col. 2, lines 34-49 describing the switch 20 as controlling the temperature as incorporated by reference from Thaler '988, figure 1 at 42) is located . . . on the housing portion (fig. 1 showing the switch contacting the housing portion) between said first handle grip (11, fig. 1) and said barrel portion (10, fig. 1) at the angle (fig. 1 showing the switch 20 at the angle) formed by the first handle grip (11, fig. 1) and the barrel portion (10, fig. 1); said cold air combination switch (20, fig. 1) is configured to be actuated selectively from the first or second handle grip (11, 10, fig. 1 showing the switch 20 at the claimed location and capable of being actuated from 11 and 10 and where this claim language is given little weight because it is functional language and the apparatus claim limitations read on the prior art), by direct contact between the cold air combination switch (20, fig. 1) and one

finger of a hand (where it is implicit that a user of a hand held hair dryer would operate the switch 20 using one finger of a hand and where figure 4 shows that a user's hand on the second handle grip would be very close to the switch 20 and could contact the switch directly with a thumb or index finger) on either the first handle grip (11, fig. 1) or the second handle grip (10, fig. 1); . . . , except for comprising operator control elements, only, a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit. However, Thaler '988 teaches comprising operator control elements (16, 18, fig. 1) in order to independently control the power and temperature (col. 2, lines 39-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include comprising operator control elements, as suggested and taught by Thaler '988, for the purpose of independently controlling the power and temperature. The modification merely involves combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Thaler '988 because Thaler '988 provides additional control over both the power and the temperature and Thaler '331, which incorporates by reference Thaler '988, could be similarly improved by having similar operator control elements, thus providing greater control over the power and temperature of the hair dryer.

Berryman teaches a centrally located warm-air conduit (fig. 3 at 97) and a coaxial cold-air conduit (74, fig. 3) are provided in a barrel portion (73, fig. 3); the central warm-air conduit (fig. 3 at 97) is formed by a hollow-cylindrical barrel (66, fig. 3), in which a heater (108, fig. 3) is located; the coaxial cold-air conduit (74, fig. 3) is formed by the barrel portion (73, fig. 3) and the hollow-cylindrical barrel (66, fig. 3); and the central warm-air conduit (fig. 3 at 97) and the coaxial cold-air conduit (74, fig. 3) are acted upon by a cold air stream of the fan (53, fig. 3) and, by means of the heater (108, fig. 3), a warm air stream outlet is effected out of the central warm-air conduit (fig. 3 at 97), and a cold air stream outlet is effected from the coaxial cold-air conduit (74, fig. 3) in order to prevent the user from being burned due to the heating of the barrel during extended use (col. 2, lines 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit, as suggested and taught by Berryman, for the purpose of preventing the user from being burned due to the heating of the barrel during extended use. The modification merely involves combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Berryman because Berryman teaches a hair dryer that reduces the heating of the barrel by using a coaxial

cold-air conduit to prevent the user from being burned and Thaler '331 could be similarly improved by having a similar barrel, thus better ensuring that the user is not burned by the barrel.

Thaler '331 in view of Thaler '988 and further in view of Berryman discloses the claimed invention except for only. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the single cold air combination switch (20, fig. 1) which is partially located on the housing (fig. 1) to be located only on the housing, for the purpose of providing more space on the first handle grip (11, fig. 1) for a more secure grip, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tang et al. (US Pub. No. 2004/0231180 A1) discloses a switch at the angle formed between a handle and a barrel, Carlucci et al. (US Pub. No. 2004/0159002 A1) discloses the same, Bastien (US Patent No. 5,467,540) discloses the same, Cafaro (US Pub. No. 2007/0047930 A1) discloses the same, Cafaro (US Pub. No. 2005/0198853 A1) discloses the same, Fogarty (US Patent No. 5,875,562) discloses the same, Lai (US D455,859 S) discloses the same, Yeung (US D502,783 S) discloses the same, and Altamore et al. (US Pub. No. 2004/0006885 A1) discloses the same.

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY HALL whose telephone number is (571)270-7833. The examiner can normally be reached on Monday - Friday, 9AM to 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on (571)272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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